PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

JONATHAN EDWARD LIGHTNER ET AL.   CASE NO.: BB1043 US NA DIV

APPLICATION NO.: 09/697,379   GROUP ART UNIT: 1638

FILED: OCTOBER 26, 2000   EXAMINER: E. F. MCELWAIN

FOR: GENES FOR MICROSOMAL DELTA -12
      FATTY ACID DESATURASES AND
      RELATED ENZYMES FROM PLANTS

RESPONSE TO SUPPLEMENTAL RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Response to Supplemental Restriction Requirement

This is submitted in response to the Office Action dated May 22, 2002 regarding the above-identified application. Applicants respectfully request reconsideration and submit the following in support thereof.

Remarks

Submitted herewith is a copy of the oath or declaration that was submitted in connection with Application No. 09/133,962 of which the present application is a divisional application. The original documents can be found in the file of Application No. 09/133,962.

Regarding the supplemental restriction, Applicants hereby provisionally elect the nucleotide sequence of SEQ ID NO:5, with traverse, for further prosecution subject to Applicants' right to pursue the non-elected subject matter in a divisional or divisional applications pursuant to 35 USC §121.

It is stated on page 2 of the Office Action that absent "evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention subject to a restriction requirement pursuant to 35 USC 121 and 37 CFR 1.141 et seq. Submitted herewith is a copy of US Patent No. 6,372,965 B1 which issued to Lightner et al. on April 16, 2002.

Claim 7 of '965 patent recites certain motifs (i.e., amino acid sequences) which the amino acid sequence comprising the enzyme encoded by the corresponding nucleotide sequence can contain. Support for these motifs can be found in Table 7 on pages 47 and 48 of the specification. These motifs provide